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October 9, 2013

The Honorable Ernest Moniz
Secretary
U.S. Department of Energy
1000 Independence Ave. SW
Washington, DC 20585

Dear Secretary Moniz:

Last week, URS Corporation terminated the employment of Dr. Walter Tamosaitis, a former engineering manager at the Waste Treatment Plant (WTP) at Hanford. As a result of the earlier decision by URS to remove Dr. Tamosaitis from WTP management in 2010, the Defense Nuclear Facility Safety Board (the Board) conducted an investigation into the safety culture at Hanford. In its report to former Secretary of Energy Steven Chu, the Board specifically noted the chilling effect that his removal had on the willingness of employees to raise safety issues.¹ This termination, coming just days after you and Deputy Secretary Daniel Poneman pledged to "...pursue a safety culture built on an environment of trust and mutual respect, worker engagement and open communication..." makes it clear that little has changed.² If Dr. Tamosaitis's removal had a chilling effect before, his termination within days of your pledge can only be seen as perpetuating a culture that would plunge DOE employees and contractors who dare to raise safety issues into the deep freeze or worse. I ask for your immediate response to this action and an explanation as to why the Department has yet to complete actions required to respond to the Board's June, 2011 letter regarding the safety culture at the Department.

In 2010, the Board conducted an investigation into Dr. Tamosaitis's removal and associated issues, including the safety culture at the site. In its June 9, 2011 letter to Secretary Chu, the Board unanimously concluded that "...the record shows that in the removal of Dr. Tamosaitis, Human Resources (HR) for URS was interested only in implementing management's demand that the employee be removed immediately. The record shows that HR did not assert

¹ DNFSB Recommendation letter to the Honorable Steven Chu transmitting Recommendation 2011-1, *Safety Culture at the Waste Treatment and Immobilization Plant*, June 9, 2011

² Memorandum for the Heads of Departmental Elements from Ernest J. Moniz and Daniel B. Poneman, *Personal Commitment to Health and Safety through Leadership, Employee Engagement, and Organizational Learning*, September 20, 2013.

any consideration or concern regarding the effect the process and manner of his removal would have on the remaining workforce and the effectiveness of the contractor-employee protection program required under 10 CFR Part 708.” The Board also concluded that DOE and contractor management suppressed technical dissent at the project.

In January 2012, the Department’s Office of Health, Safety, and Security (HSS) issued a report on its follow-up evaluation of the safety culture at the WTP, which it conducted as part of the Department’s response to the Board’s safety culture recommendation. The HSS review found that the effects of Dr. Tamosaitis’s case and his decision to report safety concerns are “...still evident.”³ The report went on to conclude that “...during the safety culture evaluation a significant number of staff within ORP, DOE-WTP, and BNI expressed reluctance to raise safety or quality concerns for various reasons. Fear of retaliation was identified in some BNI groups as inhibiting the identification of problems. Employees’ willingness to raise safety concerns without fear of retaliation is an essential element of a healthy safety culture and therefore significant management attention is needed to improve the safety culture at WTP.”

To add insult to injury, URS is also insisting that in order to obtain his severance payments for 44 years of service that Dr. Tamosaitis must release URS from “any and all claims, causes of action, and demands of any kind whatsoever, including claims for attorney’s fees, whether known or unknown, against the Company, arising out of the Employee’s employment with the Company or termination therefrom...” As URS and the Department well know, Dr. Tamosaitis is pursuing an employment claim related to his earlier removal from the project and his assignment, in the words of the Board, to “...a basement cubicle in Richland with no meaningful work.” His appeal before the United States Court of Appeals for the Ninth Circuit is scheduled for November 7, 2013.

Earlier this year at your confirmation hearing, I asked that you meet with whistleblowers at the Hanford site which you agreed to do and did do, including meeting with Dr. Tamosaitis. On September 20, 2013, you and Deputy Secretary Poneman issued a memorandum to the Department’s senior management asking that they join you in reaffirming your personal commitment to health and safety. The first action item cited in the memo is the need to pursue a safety culture that “...promotes a questioning attitude with effective resolution of reported problems...” This is all well and good, but as documented in the Board’s investigation, when Dr. Tamosaitis raised safety concerns with regard to WTP, he was removed from his position. Against this backdrop, he has now been terminated within days of your pledge to instill a safety culture that promotes the types of actions in which Dr. Tamosaitis engaged. It is hard to see how his termination could do anything but discourage employees at Hanford and throughout the

³ *Independent Oversight Assessment of the Nuclear Safety Culture and Management of Safety Concerns at the Hanford Waste Treatment and Immobilization Plant*, Office of Enforcement and Oversight, Office of Health, Safety, and Security, U.S. Department of Energy, January 2012.

complex from coming forward with health or safety concerns. If these actions against Dr. Tamosaitis are allowed to stand, it will be a very cold day indeed before employees at Hanford and across the Department feel free to come forward with health or safety concerns.

Finally, just days ago, on September 27, 2013, Deputy Secretary Poneman informed the Board that it was delaying the completion of a number of actions remaining from its response to the Board's 2011 safety culture recommendation.⁴ If safety culture is a priority at the Department, why haven't these actions been completed and why are they being further delayed?

I ask for an immediate response from you regarding these matters.

Sincerely,



Ron Wyden
Chairman

⁴ Letter from Daniel Poneman to Peter Winokur transmitting *Implementation Plan Schedule Changes for Defense Nuclear Facilities Safety Board Recommendation 2011-1*, September 27, 2013